

Exhibit 4

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-MD-2865 (LAK)

IN RE:

CUSTOMS AND TAX ADMINISTRATION OF
THE KINGDOM OF DENMARK
(SKATTEFORVALTNINGEN) TAX REFUND
SCHEME LITIGATION

C O N F I D E N T I A L

REMOTE VTC VIDEOTAPED EXPERT DEPOSITION UNDER ORAL
EXAMINATION OF
BRUCE DUBINSKY

DATE: March 29, 2022

REPORTED BY: MICHAEL FRIEDMAN, CCR

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9 (Pages 30 to 33)

<p style="text-align: right;">Page 30</p> <p>1 Q You're not an expert in trade</p> <p>2 clearing, are you?</p> <p>3 A I wouldn't consider myself an</p> <p>4 expert in trade clearing. I have some</p> <p>5 experience in looking at that aside from this</p> <p>6 case, but I wouldn't consider myself an</p> <p>7 expert in trade clearing.</p> <p>8 Q What about trade settlement? Do</p> <p>9 you consider yourself an expert in trade</p> <p>10 settlement?</p> <p>11 A Again, I have some experience in</p> <p>12 that area aside from this case, but I</p> <p>13 wouldn't hold myself out as an expert in</p> <p>14 that.</p> <p>15 Q Have you ever worked at a financial</p> <p>16 firm that was a member of the New York stock</p> <p>17 exchange?</p> <p>18 A I don't believe so, no.</p> <p>19 Q Have you ever worked at a firm that</p> <p>20 was a member of the London stock exchange?</p> <p>21 A No.</p> <p>22 Q Have you ever worked at a firm that</p> <p>23 was regulated by FINRA?</p> <p>24 A Yes.</p> <p>25 Q What firm was that?</p>	<p style="text-align: right;">Page 31</p> <p>1 A Several firms. One was Bridgewater</p> <p>2 Financial Associates. One was called SOL,</p> <p>3 S-O-L, Capital, and one was Duff & Phelps.</p> <p>4 It was a predecessor to Kroll.</p> <p>5 Q What was the second one you</p> <p>6 mentioned?</p> <p>7 A SOL Capital, S-O-L Capital.</p> <p>8 Q What did you do at Bridgewater?</p> <p>9 A I was a registered investment</p> <p>10 advisor representative for Bridgewater and so</p> <p>11 I had high net worth clients that I did</p> <p>12 investment advisory services for, and</p> <p>13 arranged their portfolios in investments.</p> <p>14 Q When did you work at Bridgewater?</p> <p>15 A That would have been late '90s,</p> <p>16 early 2000s, in that time period.</p> <p>17 Q What did you do at SOL Capital?</p> <p>18 A Same thing. I had -- this was</p> <p>19 during the time I had an accounting practice.</p> <p>20 I have a CPA and I had high net worth</p> <p>21 individual clients.</p> <p>22 And I got licensed as an IRA rep</p> <p>23 and SOL was an investment advisor registered</p> <p>24 with FINRA, regulated with FINRA, and I did</p> <p>25 the same thing. I advised high net worth</p>
<p style="text-align: right;">Page 32</p> <p>1 individual clients and pension plans,</p> <p>2 retirement plans on investments.</p> <p>3 Q And at Duff & Phelps, you did this</p> <p>4 type of work that you do now.</p> <p>5 Is that right?</p> <p>6 A No, I did not. So when I joined</p> <p>7 Duff & Phelps, I let my license lapse at that</p> <p>8 point because I was not doing that work</p> <p>9 anymore.</p> <p>10 And just to maintain the</p> <p>11 registration requirements was too much red</p> <p>12 tape. So I let the license lapse at that</p> <p>13 point.</p> <p>14 Q So what did you do at Duff &</p> <p>15 Phelps?</p> <p>16 A I was a managing director at Duff &</p> <p>17 Phelps in their disputes and investigation</p> <p>18 practice, and so I handled everything from</p> <p>19 investigations to commercial disputes, expert</p> <p>20 witness work.</p> <p>21 That was my role at Duff & Phelps.</p> <p>22 Q Okay. And in this matter, you were</p> <p>23 retained to do a forensic accounting of the</p> <p>24 cash flows of the tax refund payments paid</p> <p>25 out by SKAT.</p>	<p style="text-align: right;">Page 33</p> <p>1 Is that right?</p> <p>2 A Among other things, yes, that was</p> <p>3 part of what I was asked to do.</p> <p>4 Q Okay. And your forensic accounting</p> <p>5 was of the payments that allegedly went to</p> <p>6 Solo clients.</p> <p>7 Right?</p> <p>8 A That portion of the work was, yes,</p> <p>9 looking at the refund claim payments paid by</p> <p>10 SKAT and the money flow from those payments,</p> <p>11 where did the money go.</p> <p>12 Q You did not do a forensic</p> <p>13 accounting of SKAT, did you?</p> <p>14 A No, I did not.</p> <p>15 Q Okay. You did not do a forensic</p> <p>16 accounting to assess whether the withholding</p> <p>17 tax associated with the refund claims in this</p> <p>18 case was actually paid to SKAT.</p> <p>19 Right?</p> <p>20 A No, I did not.</p> <p>21 Q Did you develop a view of whether</p> <p>22 SKAT collected dividend withholding tax from</p> <p>23 any of the sellers in the trades associated</p> <p>24 with this case?</p> <p>25 MR. WEINSTEIN: Objection to form.</p>

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19 (Pages 70 to 73)

<p style="text-align: right;">Page 70</p> <p>1 the standpoint of in the ultimate</p> <p>2 determination who had legal title, yes, that</p> <p>3 would be a legal determination.</p> <p>4 Q And that's not a determination that</p> <p>5 you're qualified to make.</p> <p>6 Right?</p> <p>7 A Again, I'm not a lawyer. I was</p> <p>8 doing a forensic accounting investigation to</p> <p>9 determine whether there was evidence that</p> <p>10 these shares actually existed, and that's</p> <p>11 what I was discussing.</p> <p>12 Q Okay. But this doesn't -- this</p> <p>13 opinion doesn't talk about whether the shares</p> <p>14 actually existed.</p> <p>15 It talks about ownership, doesn't</p> <p>16 it?</p> <p>17 MR. WEINSTEIN: Objection to form.</p> <p>18 A Well, the heading says what it</p> <p>19 says. But as you go through the report, the</p> <p>20 basis for the opinion is that I saw no</p> <p>21 evidence to support that the shares actually</p> <p>22 existed.</p> <p>23 And therefore, if the shares didn't</p> <p>24 exist, certainly from a forensic accounting</p> <p>25 standpoint, the plans couldn't have owned</p>	<p style="text-align: right;">Page 71</p> <p>1 them.</p> <p>2 Q You say if the shares didn't exist,</p> <p>3 the plan -- the plans couldn't have owned</p> <p>4 them.</p> <p>5 Is -- again, I ask you: Is that a</p> <p>6 legal opinion?</p> <p>7 A No, I think that's a forensic</p> <p>8 accounting opinion, I think the genesis</p> <p>9 being, after doing a forensic investigation</p> <p>10 and looking for evidence of the actual shares</p> <p>11 existing at either -- ultimately at a</p> <p>12 custodian that Solo used as a sub-custodian,</p> <p>13 and the fact that those shares didn't exist,</p> <p>14 I concluded that therefore, the plans could</p> <p>15 not have owned them. And I think that's a</p> <p>16 forensic accounting conclusion.</p> <p>17 Ultimately, the judge or jury --</p> <p>18 well, the judge would have to make a</p> <p>19 determination from a legal standpoint if</p> <p>20 there's something different than that, if</p> <p>21 there was legal ownership or not.</p> <p>22 I'm not issuing a legal opinion.</p> <p>23 Q So the forensic -- so a forensic</p> <p>24 accountant is qualified to determine</p> <p>25 ownership?</p>
<p style="text-align: right;">Page 72</p> <p>1 Is that your testimony?</p> <p>2 MR. WEINSTEIN: Objection to form.</p> <p>3 A I think certainly from the</p> <p>4 standpoint of looking at the substance of a</p> <p>5 transaction and trying to determine if the</p> <p>6 substance was, were there shares, did the</p> <p>7 plans actually own those, yes, I think I'm</p> <p>8 qualified and it is within the purview of a</p> <p>9 forensic accounting investigation.</p> <p>10 I think the judge will make a</p> <p>11 determination -- if there's a different legal</p> <p>12 meaning, then that would be up to the judge</p> <p>13 to make.</p> <p>14 Q So is that ownership under U.S.</p> <p>15 principles of ownership?</p> <p>16 MR. WEINSTEIN: Objection to form.</p> <p>17 A Again, I'm not issuing a legal</p> <p>18 opinion or not, or I'm not issuing a legal</p> <p>19 opinion.</p> <p>20 What I'm saying is I'm looking from</p> <p>21 an accounting perspective, what do I see. Do</p> <p>22 the plans -- and they're U.S. based pension</p> <p>23 plans -- did they own the shares, did the</p> <p>24 shares exist.</p> <p>25 And I concluded the shares did</p>	<p style="text-align: right;">Page 73</p> <p>1 not -- there was no evidence that the shares</p> <p>2 existed. And therefore, the dividends</p> <p>3 weren't -- couldn't have existed, weren't</p> <p>4 paid, and that was my conclusion.</p> <p>5 Q I'm asking you regarding your</p> <p>6 statement regarding ownership, sir. And I'm</p> <p>7 asking you whether it was under U.S.</p> <p>8 principles of ownership.</p> <p>9 What is your answer to that</p> <p>10 question?</p> <p>11 A Again, I think you're asking for a</p> <p>12 legal conclusion and I'm not here to give you</p> <p>13 a legal opinion on -- I'm here to tell you</p> <p>14 what I did and under what basis that I</p> <p>15 opined.</p> <p>16 Q So the concept of ownership in your</p> <p>17 Opinion Number 1, you're not willing to tell</p> <p>18 me under what principle you're giving that</p> <p>19 opinion, whether it's U.S., EU, Danish, or</p> <p>20 whatever?</p> <p>21 MR. WEINSTEIN: Objection to form,</p> <p>22 asked and answered.</p> <p>23 A Again, I'm not here to issue a</p> <p>24 legal opinion. I think that would call for a</p> <p>25 legal opinion.</p>

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22 (Pages 82 to 85)

<p style="text-align: right;">Page 82</p> <p>1 to sell those same shares. I can sell those</p> <p>2 shares even though the trade hasn't settled</p> <p>3 yet.</p> <p>4 Right?</p> <p>5 MR. WEINSTEIN: Objection.</p> <p>6 A Again, my understanding is you</p> <p>7 could place a trade to sell them, but you</p> <p>8 have to go through the first settlement</p> <p>9 before you can settle on the sale. So you'd</p> <p>10 need to have the settlement on the buy side,</p> <p>11 and then go to settlement on the sell side.</p> <p>12 You can't just do it in thin air.</p> <p>13 Q Oh, so you're saying that I can't</p> <p>14 buy and sell Apple on the same day?</p> <p>15 MR. WEINSTEIN: Objection,</p> <p>16 misstates his testimony.</p> <p>17 A That's not what I said.</p> <p>18 Q It was a question.</p> <p>19 MR. WEINSTEIN: The question was --</p> <p>20 Q Can you buy and sell Apple on the</p> <p>21 same day?</p> <p>22 A You could place a trade for a buy</p> <p>23 order and a sell order on the same day, yes.</p> <p>24 Q And when you buy the shares, are</p> <p>25 you the owner of the shares?</p>	<p style="text-align: right;">Page 83</p> <p>1 MR. WEINSTEIN: Objection, calls</p> <p>2 for a legal conclusion, vague. Again,</p> <p>3 you know, I think you're --</p> <p>4 MR. BONGIORNO: I think you could</p> <p>5 just object without giving a speech,</p> <p>6 please.</p> <p>7 MR. WEINSTEIN: Did you hear the</p> <p>8 objections of your side the other day?</p> <p>9 Lengthy speeches and bases. But when</p> <p>10 you call for a legal conclusion, I'm</p> <p>11 going to make that objection.</p> <p>12 A Again, I think you're asking me for</p> <p>13 a legal conclusion on who owned -- who owns</p> <p>14 the shares. But assuming a trade is placed</p> <p>15 and settlement is to occur and the stock is</p> <p>16 actually delivered -- cleared, delivered, and</p> <p>17 settled, then you would own the stock, the</p> <p>18 stock is there. You own it.</p> <p>19 Q But if you buy and sell on the same</p> <p>20 day, it doesn't -- the buy doesn't clear,</p> <p>21 does it?</p> <p>22 MR. WEINSTEIN: Objection, form.</p> <p>23 A Again, the buy -- you can place the</p> <p>24 orders on the same day, but there has to be a</p> <p>25 settlement and clearance process for the two</p>
<p style="text-align: right;">Page 84</p> <p>1 legs of that trade.</p> <p>2 Q But they can net settle, can't</p> <p>3 they?</p> <p>4 MR. WEINSTEIN: Objection to form.</p> <p>5 A In what scenario?</p> <p>6 Q In the scenario I just gave where I</p> <p>7 buy a hundred shares of Apple today, and then</p> <p>8 I sell later today?</p> <p>9 MR. WEINSTEIN: Objection to form.</p> <p>10 A If the -- if you're trading</p> <p>11 through -- my understanding is if you're</p> <p>12 trading through the same sub-custodian and</p> <p>13 both the buyer and seller or custodian or</p> <p>14 sub-custodian and both the buyer and seller</p> <p>15 have accounts there when the settlement</p> <p>16 occurs, there could be a net settlement</p> <p>17 because the stock is already at the</p> <p>18 custodian. The stock exists.</p> <p>19 So in that hypothetical, I would</p> <p>20 agree that type of net settlement could</p> <p>21 occur.</p> <p>22 Q So your testimony is, if I buy and</p> <p>23 later sell a hundred shares of Apple on the</p> <p>24 same day through my broker, they can't net</p> <p>25 settle unless the broker is long those</p>	<p style="text-align: right;">Page 85</p> <p>1 shares?</p> <p>2 Is that your testimony?</p> <p>3 MR. WEINSTEIN: Objection to form.</p> <p>4 A No. I'm saying that the</p> <p>5 shares -- either the broker has a market in</p> <p>6 those shares and has an inventory. But you</p> <p>7 posed if you bought and sold, and the -- and</p> <p>8 the broker is acting as an agent for that</p> <p>9 sale, not a principal, then, in that</p> <p>10 hypothetical, I believe they can net settle</p> <p>11 if both the buyer and seller were at the same</p> <p>12 institution and the shares were already</p> <p>13 either at the custodian at the institution or</p> <p>14 the sub-custodian.</p> <p>15 That's my understanding.</p> <p>16 Q So your view is if the shares are</p> <p>17 not already at the custodian or</p> <p>18 sub-custodian, and I buy and sell on the same</p> <p>19 day, that the custodian has to go out and</p> <p>20 find those shares even though I bought and</p> <p>21 sold them the same day?</p> <p>22 A My -- it's -- again, I'm not -- I</p> <p>23 think there's other people dealing with</p> <p>24 trading, trading experts in this case.</p> <p>25 That's not, you know, my area or my opinion.</p>

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23 (Pages 86 to 89)

<p style="text-align: right;">Page 86</p> <p>1 But my general understanding is, 2 yes, to net settle, you would have to have 3 the shares at the same custodian or the 4 shares were being borrowed and brought into 5 that custodian and already sourced. 6 But that's my general 7 understanding. I'm not an expert on net 8 settlement. 9 Q Okay. Let's look at Tab 5225 of 10 your binder. 11 MR. BONGIORNO: We'll mark this as 12 Exhibit 5225. 13 (Whereupon the above mentioned was 14 marked for Identification.) 15 Q It's a document entitled "SEC 16 Investor Publications, Day Trading: Your 17 Dollars at Risk." 18 Do you have that? 19 A It doesn't say "SEC." Mine just 20 says "Investor Publications, Day Trading: 21 Your Dollars at Risk." 22 Q Okay. We're looking at the same 23 document, and we're at tab -- Exhibit 5225. 24 At the top of the page, I want to 25 read to you the first sentence.</p>	<p style="text-align: right;">Page 87</p> <p>1 "Day traders rapidly buy and sell 2 stocks throughout the day in the hope that 3 their stocks will continue climbing or 4 falling in value for the seconds to minutes 5 they own the stock, allowing them to lock in 6 quick profits." 7 Did I read that correctly? 8 A Yes. 9 Q And does this document suggest to 10 you that traders can both buy and sell the 11 same stock on the same trading day? 12 A Yes, that's what it says. 13 Q And it says the traders can do this 14 rapidly throughout the day. 15 Correct? 16 A Correct. 17 Q And if the traders buy and sell 18 rapidly, they nonetheless own a stock on the 19 trade, even if for seconds to minutes. 20 Right? 21 MR. WEINSTEIN: Objection to form. 22 A Well, again, I haven't read this 23 whole document and I don't -- I mean, it 24 says -- it says what it says. 25 I don't know what they mean by "own</p>
<p style="text-align: right;">Page 88</p> <p>1 the stock" in regards to this. I haven't 2 read this whole document. 3 I assume -- 4 Q But it doesn't say? 5 A Well, I assume they mean the trades 6 settle. I assume they mean they're going to 7 settle. You can't have a trade that doesn't 8 settle. 9 But it doesn't -- let me just see 10 if it says anything else about that here. 11 (Witness reviewing.) 12 Q Okay. 13 A (Witness reviewing.) 14 Yeah, it doesn't get into much 15 detail. 16 Q It doesn't say anything about 17 settlement. 18 Right? 19 A No. It's a two-page document from 20 2005. It doesn't really get into the 21 mechanics of the trade. 22 Q The document doesn't say that a day 23 trader must confirm that its broker or 24 custodian holds the shares that the investor 25 is purchasing.</p>	<p style="text-align: right;">Page 89</p> <p>1 Right? 2 A It doesn't -- well, let me -- let's 3 just see. 4 (Witness reviewing.) 5 No, it's just -- it's just saying 6 that day trading firms must register with the 7 SEC in the states. No, it doesn't -- it 8 doesn't say specifically anything about 9 confirming with the broker. 10 Q But it does use the word "own." 11 Right? 12 A Yes. 13 Q The same word you used in one of 14 your opinions that we looked at earlier? 15 A Yes. 16 Q And you'd agree with me that short 17 selling is very common. 18 Right? 19 A I would agree that short selling 20 happens in the market. 21 Q You wouldn't agree with me that 22 it's common, though? 23 A Well, in relative to what, short 24 sell? I will agree that short selling occurs 25 and it happens.</p>

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42 (Pages 162 to 165)

<p style="text-align: right;">Page 162</p> <p>1 millions of documents in this case.</p> <p>2 And sitting here today, I can't</p> <p>3 recall each specific one, but nothing is</p> <p>4 coming top of mind that there would have been</p> <p>5 an external account statement for Colbrook</p> <p>6 showing any stock owned.</p> <p>7 Q If such documents existed, is that</p> <p>8 something you would have wanted to see?</p> <p>9 A If there were documents that showed</p> <p>10 Colbrook actually had a position in Carlsberg</p> <p>11 at 600,000 shares and they put those into the</p> <p>12 Solo transaction, yes, I would have -- that</p> <p>13 would have been a document that I would like</p> <p>14 to see.</p> <p>15 Q What if they had 600,000 shares but</p> <p>16 didn't, as you say, put it into the Solo</p> <p>17 transaction? Is that something that you</p> <p>18 would want to see?</p> <p>19 A It would -- it certainly would be</p> <p>20 interesting if those shares existed</p> <p>21 somewhere. I haven't seen any evidence to</p> <p>22 suggest that they existed.</p> <p>23 Q The document -- let's go back to</p> <p>24 Figure 14, Page 55 of your report.</p> <p>25 That document is, again, a document</p>	<p style="text-align: right;">Page 163</p> <p>1 from the Elysium documents.</p> <p>2 Right?</p> <p>3 A Yes.</p> <p>4 Q And there's nothing on the face of</p> <p>5 this document that you have shown here in</p> <p>6 Figure 14 that reflects that it was sent to</p> <p>7 any U.S. pension plan.</p> <p>8 Right?</p> <p>9 A The only reason I'm hesitating to</p> <p>10 answer your question, something in the back</p> <p>11 of my mind, I thought Martin Smith actually</p> <p>12 owned some pension plans. But I'd have to go</p> <p>13 back and check.</p> <p>14 But this was sent to Martin Smith</p> <p>15 at Colbrook. I know there's crossover</p> <p>16 between some of the people involved at the</p> <p>17 counterparties and some of the people that</p> <p>18 also had pension plans.</p> <p>19 I'd need to go back and</p> <p>20 cross-reference that.</p> <p>21 Q But it didn't go to -- to the</p> <p>22 extent it went to somebody named Martin</p> <p>23 Smith, it went to a Colbrook Limited address,</p> <p>24 not a U.S. pension plan address.</p> <p>25 Right?</p>
<p style="text-align: right;">Page 164</p> <p>1 A Yes, but that wasn't the question</p> <p>2 you asked. So just to clarify, yes, this is</p> <p>3 going to a Colbrook e-mail address.</p> <p>4 You asked me, in your earlier</p> <p>5 question, do I know if this e-mail went to</p> <p>6 anybody at a U.S. pension plan, I think was</p> <p>7 your question, and that's what I wanted to</p> <p>8 clarify.</p> <p>9 Q But these documents reflected in</p> <p>10 Figures 9 and 14, neither one of them went to</p> <p>11 a U.S. pension plan.</p> <p>12 Right?</p> <p>13 A Well, let me just go back and look</p> <p>14 at what 9 was.</p> <p>15 MR. WEINSTEIN: Objection, asked</p> <p>16 and answered.</p> <p>17 A (Witness reviewing.)</p> <p>18 Q Let me ask you a different</p> <p>19 question.</p> <p>20 Neither of the documents reflected</p> <p>21 in your Figures 9 and 14 went to Bernina, did</p> <p>22 they?</p> <p>23 A I don't see anything that</p> <p>24 would -- on the face of it that would</p> <p>25 indicate whether they did or not. I don't</p>	<p style="text-align: right;">Page 165</p> <p>1 know one way or another where these documents</p> <p>2 went, so I can't say.</p> <p>3 Q And in order to determine what you</p> <p>4 called the "closed loop," you needed to see</p> <p>5 these documents, didn't you?</p> <p>6 A Correct. These were the steps of</p> <p>7 the purported transaction.</p> <p>8 Q Mr. Dubinsky, you're not an expert</p> <p>9 in trade settlement operations.</p> <p>10 Right?</p> <p>11 A That is correct. I wouldn't</p> <p>12 consider myself an expert in trade</p> <p>13 settlement.</p> <p>14 I do have some experience with it,</p> <p>15 but I'm not being proffered here and I</p> <p>16 understand somebody else is dealing with</p> <p>17 trades and settlement issues.</p> <p>18 Q Do you understand what "net</p> <p>19 settlement" is?</p> <p>20 A As a general concept, yes.</p> <p>21 Q It's a -- two or more transactions</p> <p>22 that offset each other in settlement.</p> <p>23 Is that right?</p> <p>24 A Well, I think that's a very general</p> <p>25 description. You know, it's a -- very</p>